

this part on which petitioner wishes to participate; and

(v) Whether petitioner intends to present witnesses.

(2) The administrative law judge shall, within 5 days of receipt of the petition, ascertain what objections, if any, there are to the petition. He shall then determine whether the petitioner is qualified in his judgment to be a party in the proceedings and shall permit or deny participation accordingly. The administrative law judge shall give each petitioner written notice of the decision on his petition promptly. If the petition is denied, the notice shall briefly state the grounds for denial. Persons whose petition for party participation is denied may appeal the decision to the Secretary within 5 days of receipt of the notice of denial. The Secretary will make the final decision to grant or deny the petition no later than 20 days following receipt of the appeal.

(3) Where the petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may require all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners.

§ 1955.18 Provision for written comments.

Any person who is not a party may submit a written statement of position with 4 copies to either the Assistant Secretary or the State at any time during the proceeding which statement shall be made available to all parties and may be introduced into evidence by a party. Mere statements of approval or opposition to the plan without any documentary support shall not be considered as falling within this provision.

Subpart C—Consent Findings and Summary Decisions

§ 1955.20 Consent findings and orders.

(a)(1) At any time during the proceeding a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of

the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the administrative law judge, after consideration of the requirements of section 18 of the Act, the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues.

(2) Any agreement containing consent findings and a rule or order disposing of a proceeding shall also provide:

(i) That the rule or order shall have the same force and effect as if made after a full hearing;

(ii) A waiver of any further procedural steps before the administrative law judge and the Secretary; and

(iii) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(b)(1) On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(i) Submit the proposed agreement to the administrative law judge for his consideration; or

(ii) Inform the administrative law judge that agreement cannot be reached.

(2) In the event an agreement containing consent findings and a rule or order is submitted within the time allowed therefor, the administrative law judge may accept such agreement by issuing his decision based upon the agreed findings. Such decision shall be published in the FEDERAL REGISTER.

§ 1955.21 Motion for a summary decision.

(a)(1) Any party may move, with or without supporting affidavits, for a summary decision on all or any part of the proceeding. Any other party may, within 10 days after service of the motion, serve opposing affidavits or file a cross motion for summary decision. The administrative law judge may, in his discretion, set the matter for argument and call for submission of briefs. The filing of any documents under this section shall be with the administrative law judge and copies of any such